UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

<u>VIA UPS</u>

DEC 0 8 2015

Tim Johnson
Branch Manager
Safety Kleen Systems, Inc.
10 Industrial Park Drive
Wheeling, WV 26003

Re: Notice of Violation   Docket Number: R3-16-NOV-RCRA -006
      Compliance Evaluation Inspection
      August 10-11, 2015
      <u>EPA ID No. WVD981034101</u>

Dear Mr. Johnson:

On August 10- 11, 2015 the U.S. Environmental Protection Agency, Region III ("EPA") conducted a Compliance Evaluation Inspection ("CEI") under the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. Sections 6901 et seq. at Safety Kleen Systems, Inc. (the Facility) located in Wheeling West Virginia. A copy of the inspection report is enclosed. Based on that inspection and/or review of other pertinent information, EPA has determined that the Facility is violating regulations promulgated under West Virginia Hazardous Waste Management Act, West Virginia Code ("WV Code") and RCRA. As a result of this finding, the Agency is issuing this **Notice of Violation (NOV).** The specific violation(s) are:

1.   The copy of the Preparedness, Prevention, and Contingency Plan provided to the inspector did not include a list and locations of the spill equipment. The plan must include a list of all emergency equipment at the facility and provide the location as well as the physical description of each item along with a brief description of its capabilities as required by WV Code § 33-20-5 [40 CFR 265.52(e)].

Section 3008(a) of RCRA authorizes EPA to take an enforcement action whenever it is determined that any person has violated, or is in violation, of any requirement of RCRA as amended. Such an action could include a penalty of up to $37,500 per day of violation. In addition, failure to achieve and maintain compliance with the regulations cited in this Notice of Violation may be treated as a repeated offense and may constitute a "knowing" violation of Federal law.

Within twenty (30) calendar days of the receipt of this NOV, please submit a response documenting the measures the facility has taken or is taking to achieve compliance with the

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violations noted above or provide an explanation of facts and circumstances that cause you to believe that EPA's determination of the alleged violations are in error. If the compliance measures identified are planned or are on-going, please provide a schedule for when the compliance measures will be completed.

With regard to the Small Business Regulatory Enforcement and Fairness Act (SBREFA), please see the "Information for Small Businesses" memo, enclosed, which might be applicable to your company. This enclosure provides information on contacting the SBREFA Ombudsman to comment on federal enforcement and compliance activities and also provides information on compliance assistance. As noted in the enclosure, any decision to participate in such program or to seek compliance assistance does not relieve you of your obligation to respond in a timely manner to an EPA request or other enforcement action, create any rights or defenses under law, and will not affect EPA's decision to pursue this enforcement action. To preserve your legal rights, you must comply with all rules governing the administrative enforcement process. The Ombudsman and fairness boards do not participate in the resolution of EPA's enforcement action. EPA has not made a determination as to whether or not you [or your company] are covered by the SBREFA.

This Notice of Violation is not intended to address all past violations, nor does it preclude EPA from including any ongoing, including the one cited in this letter, or past violations in any future enforcement action. Any response to this NOV shall be addressed to:

> Stephen Forostiak
> Office of Land Enforcement
> EPA Region III - 3LC70
> 1650 Arch Street
> Philadelphia, PA 19103-2029
> Phone: 215/814-2136
> forostiak.stephen@epa.gov

Carol Amend, Associate Director
Land and Chemicals Division
Office of Land Enforcement

Dec 7, 2015
Date

Enclosure

cc: S. Forostiak (3LC70)
        J. Sizemore (WVDEP)